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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,246	08/31/2001	Chet D. Linton	8808.11	1295
21999 7590 04/15/2008 KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111				
EXAMINER FERNSTROM, KURT				
ART UNIT		PAPER NUMBER		
3711				
MAIL DATE		DELIVERY MODE		
04/15/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/945,246

**Applicant(s)**

LINTON, CHET D.

**Examiner**

Kurt Fernstrom

**Art Unit**

3711

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 9-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/IC)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 9-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linton in view of Pellegrino. Linton discloses in column 3, line 48 to column 6, line 36 of the specification a system for professional development of instructors comprising the steps of providing an instructor with training over the Internet that teaches skills in accordance with measurable standards. Linton further discloses in column 9, lines 36-65 that reports are generated based on comparisons of performance to measurable standards and provided to teachers and administrators. Linton fails to disclose a lesson plan development system as recited. However, Pellegrino discloses in column 17, lines 13-33 and column 20, line 16 to column 21, line 49 an online system comprising a matrix for use by an instructor in developing lesson plans. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Linton by providing a lesson plan development matrix for the purpose of allowing a user to assist an instructor in developing a lesson plan as part of the training. The step of providing worksheets as recited is considered to be an obvious variation on the teachings of Linton and Pellegrino, as worksheets are well known in instructional settings and both Linton and

Pellegrino discloses a step of providing instructional information over the Internet. With respect to claims 2 and 3, Linton discloses a step of providing evaluation reports to supervisors and instructors as noted above. With respect to claim 4, 9, 11 and 18, Linton discloses in column 2, lines 24-34 professional development training based on standards relating to the profession. With respect to claims 5 and 10, Linton discloses on-line training (see e.g. col. 6, lines 16-20). With respect to claim 6, Linton discloses in column 8, lines 11-29 that the instruction comprises video. With respect to claim 12, the step of providing instruction pertaining to professional standards inherently involves inputting said standards and data into electronic media. With respect to claim 13, while Linton does not explicitly disclose the use of pedagogical standards, such standards are obvious in light of the teachings of Linton. With respect to claims 14-17, Linton discloses third party access to the standards and the steps of evaluating the success of the training and modifying them in response thereto, as well as evaluating the professional. With respect to claims 19-21, as noted above Linton discloses in column 9, lines 37-65 the claimed method steps. With respect to claim 22, providing the training to parents would have been obvious in light of the teachings of Linton.

### ***Response to Arguments***

Applicant's arguments filed January 17, 2008 have been fully considered but they are not persuasive. With respect to the arguments concerning the limitation of "allowing said instructor to teach said individuals according to said lesson plan", the very purpose of a lesson plan is to facilitate teaching a lesson to students. Such a step is virtually

inherent in any method involving development of a lesson plan, and is suggested at several points in the specification (see e.g. col. 2, lines 62-65, col. 3, lines 30-31, col. 20, lines 62-67). Additionally, a step of "allowing" someone to do something is extremely broad. The instructors of Linton and Pellegrino are allowed to do any number of things, including teaching individuals. With respect to the limitation concerning "assessing success of said training...comprising testing said individuals...and analyzing and correlating results", Linton discusses at column 9, 52-65 that the teachers receive evaluation reports including information relating to assignment completion and exam/assignment verification, such that the teacher can gauge the level of comprehension of each student. This reads on the claim language, as it involves assessing the success of the training via testing students and analyzing the results. These evaluation reports inherently involve assessment data, and the discussion of gauging the comprehension level of the students inherently involves an evaluation of the effectiveness of the teaching. Thus, Linton and Pellegrino do disclose or suggest all of the limitations of claim 1, and the rejection of the claim based on the combination of references is proper. The rejections of claims 9, 12 and 18 are rejected for similar reasons, as the relied-upon claim language is suggested by the excerpt cited above. These claims also contain very broad claim terminology, including "facilitating" and "utilizing", which do not recite concrete method steps.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kurt Fernstrom/  
Primary Examiner, Art Unit 3711  
April 11, 2008